

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-41 are presently active in this case, Claims 16 and 17 amended by way of the present amendment.

In the outstanding Official Action, Claims 16 and 17 were objected to for informalities noted in paragraph 2 of the Official Action; Claims 1-5, 14-17, 19-24, 33-36, 38 and 40-41 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 20040024876 to Ito et al.; and Claims 6-9, 18, 25-28, 37 and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ito et al. in view of the Examiner's official notice; and Claims 10-13 and 29-32 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

First, Applicants wish to thank the Examiner for indication that Claims 10-13 and 29-32 include allowable subject matter. However, Applicants wish to maintain Claims 10-13 and 29-32 in dependent form at this time since Applicants believe the remarks contained herein overcome the rejection based on Ito et al.

With regard to the objection to Claims 16 and 17, these claims have now been amended to correct the noted informalities. Therefore, the objection is believed to be overcome.

Turning now to the merits, Applicants submit that the Ito et al. reference is not prior art to the present application. Specifically, Ito et al. is based on a PCT application PCT/JP01/06885 filed August 9, 2001, which claims priority to JP 2000-245088 filed August 11, 2000. The present application was filed in the U.S. on April 24, 2001, after the filing date of the JP application, but before the filing date of the PCT application. However, a foreign

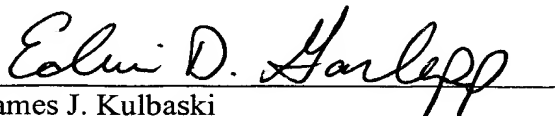
filing date cannot serve as a 102(e) date for a prior art reference. This is shown by 102(e), Example 3 on page 700-30 of the M.P.E.P., 8th Edition. Therefore, Ito et al.'s August 11, 2000 Japanese filing date is not the 102(e) date for the Ito et al. reference. In this regard, it is noted that the Japanese publication for JP 2000-245088 and the PCT publication for PCT/JP 01/06885 would have been published on about February 2002, which is eighteen months after the earliest priority date. Thus, although these references are not cited as prior art in the present application, Applicants note that they would not be prior art under 102(e) or 102(a) because the February 2002 publication date is after the filing date for the present application.

Based on the above comments, Applicants submit that neither the Ito et al. reference nor publications of its priority documents can serve as prior art under Section 102(e) or any other section of the patent statute. In this regard, the Examiner is invited to telephone the undersigned for a further discussion of this conclusion, if necessary. As Ito et al. is not prior art to the present application, the rejection in the outstanding Official Action should be withdrawn.

Consequently, in view of the present application, no further issues are believed to be outstanding in the present application, the present application is believed to be in condition for formal allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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